IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA CHARLESTON DIVISION

SOLOMON DUKES, JR.,)	
Petitioner,)	
)	CIVIL ACTION No. 2:99-1129-DCN
vs.)	
)	<u>ORDER</u>
UNITED STATES OF AMERICA,)	
Respondent.)	
)	

Petitioner Solomon Dukes, Jr. ("Dukes") has filed A Motion Requesting A Certificate of Appealability pursuant to 28 U.S.C. § 2253(c)(1). 28 U.S.C. § 2253(c)(1) provides that an appeal of a decision on a habeas corpus petition filed under 28 U.S.C. § 2254 or a motion under 28 U.S.C. § 2255 may not be taken "unless a circuit justice or judge issues a certificate of appealability."

A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To meet this burden an applicant must show that "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).¹

Here, this court has previously concluded that Dukes' claims are without merit. Dukes has raised no new arguments which cause the court to view the issues as debatable, conclude that

¹When the denial of relief is based upon procedural grounds, a certificate of appealability should issue if "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack*, 529 U.S. at 485.

the issues could have been resolved differently, or find that the issues raise questions which warrant further review. For the reasons stated in the May 3, 2005 order, this court finds that Petitioner has not made a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253.

It is therefore **ORDERED**, for the foregoing reasons, that Dukes' Motion Requesting Certificate of Appealability is hereby **DENIED**.

AND IT IS SO ORDERED.

DAVID C. NORTON

UNITED STATES DISTRICT JUDGE

Charleston, South Carolina August 23, 2005